HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 751 of 2007

Between:

B. Murugaiah & others

… Appellants

And

Government of Andhra Pradesh
Rep. by its Principal Secretary,
Social Welfare (C2) Department,
Hyderabad & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri P. Govind Reddy

September 14, 2007

Per G.S. SINGHVI, CJ

The appellants, who have so far succeeded in frustrating the efforts made by the authorities of Chittoor District to provide pathway to the Dalith population of T. Puttur Village, Thavanampalli Mandal for taking their dead bodies to the burial ground by resorting to acquisition of a small parcel of land measuring Ac.0.38 cents from various survey numbers, but could not ultimately convince the learned Single Judge to entertain their prayer for quashing notification dated 27.6.1997 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), have filed this appeal under Clause 15 of the Letters Patent.

The schedule appended to notification dated 27.6.1997, which contains classification of the lands, their survey numbers, the details of

pattedars and the extent of land proposed to be acquired, reads as under:

SCHEDULE

Dist: Chittoor Mandal : Thavanampalli Village: T.Puttur

Description of the land-- wet or dry Government or Inam poramboke with S.No. or Paimsh No.	Name of the Pattedar/enjoyer and interested person	Approximate extent to be taken up- Acrs.	Whether waste arable
239/1 Govt. Dry	Doraswamy Reddy	0.10	
240/2 Govt. Dry	Murugaiah	0.06	
241/1B Govt. Dry	M.Rami Reddy	0.03	
241/2B Govt. Dry		0.02	
331/1BGovt. Wet	T.Chandrasekhar Reddy	0.03	
332/1 Govt. Wet	T.Chandrasekhar Reddy	0.01	
333/2B Govt. Wet	M.Pattabhirami Reddy	0.05	
333/4B Govt. Wet	T.Chandrasekhara Reddy	0.02	
336/3B Govt. Wet	M.Pattabhirami Reddy	0.01	
336/4B Govt. Wet	M.Pattabhirami Reddy	0.03	
336/5 B Govt. Wet	M.Pattabhirami Reddy	0.01	
336/6B Govt. Wet	N.Doraswamy Reddy	0.01	

The learned Single Judge noted that some writ petitioners unsuccessfully filed three suits i.e. O.S.Nos.926 of 1973, 440 of 1995 and 660 of 1995 to stall the acquisition proceedings and then invoked jurisdiction of the High Court under Article 226 of the Constitution of India and held that the acquisition in question was for a public purpose and the procedure followed by the authorities does not suffer from any legal infirmity. Accordingly, he dismissed the writ petition vide order dated 23-3-2007, the relevant portion of which is extracted below:

> "Providing a site for burial ground is undoubtedly a public purpose. Consequently, providing for a compulsory pathway to such burial ground for ingress and egress purposes has to be necessarily treated and termed as public purpose as well. Compulsory acquisition

of land is permissible for achieving a public purpose. Therefore, the writ petitioners are not justified in any manner in objecting to the State Government utilizing a portion of its land to be set apart as burial ground. But however, without objecting to the same in so many words, the writ petitioners are merely expressing an objection against the impugned notification which seeks to provide for a pathway to the proposed burial ground. If the pathway is choked up, even if a portion of land situate in S.No.330/2 is re-classified as burial ground for dalithwada, it cannot be put to such a use. Therefore, I do not find any bonafides in the attack mounted by the writ petitioners against the proposed acquisition for the formation of the pathway. However, a mere look at the schedule appended to the impugned notification would disclose that only small extent of lands, not more than 0.10 cents of the individual petitioners is being affected by the impunged acquisition. In para 2 of the counter affidavit, the Revenue Divisional Officer had disclosed the extents of land proposed to be acquired from the writ petitioners for providing pathway to burial ground which are very small extents ranging from Ac.0.01 cents to Ac.0.10 cents. Undoubtedly, the petitioners 3 to 6 own substantial extents of land while petitioners 1 and 2 own small extents of land. I therefore find that for achieving a larger public purpose, the sacrifice called for from the writ petitioners through the impugned notification is quite insignificant one."

Shri P. Govind Reddy argued that the purpose for which the land of the appellants is sought to be acquired i.e. for providing pathway to the burial ground of Daliths cannot be treated as a public purpose within the meaning of Section 4(1) of the Act.

We have considered the submission of the learned counsel, but have not felt convinced. There cannot be any doubt that Dalith population constitutes an integral part of the social structure of the village and they are entitled to ingress and egress for the burial ground without which they cannot cremate or bury the dead bodies of their community. Therefore, the conclusion recorded by the learned Single Judge that acquisition of land for providing site for burial ground or pathway to such burial ground is a public purpose is legally correct and does not call for interference under Clause 15 of the Letters Patent.

Shri Govind Reddy did make efforts to convince us that the impugned acquisition is motivated, but we are unable to agree with him because the appellants have not laid foundation for raising the plea of malice in fact or malice in law.

We are further of the view that this Court cannot sit in appeal over the assessment made by the competent authorities on the issue of requirement of land for the pathway leading to the burial ground for the Daliths of the village and interfere with the acquisition on the spacious ground that the appellants will be deprived of small parcels of land.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No. 1502 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

September 14, 2007

C.V. NAGARJUNA REDDY, J

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